

NEW



**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

January 6, 1998

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of **United Air Lines, Inc.** filed **10/30/97** and amended **11/21/97¹** in Docket **OST-97-2358** and Undocketed for:

XX *Statement of Authorization for United under 14 CFR Part 207 to:*

Substitute Cleveland for the code-share point Maui, and to display VARIG's designator code, on a blind-sector basis, on flights operated by United, carrying VARIG's Brazil-U.S. traffic in the following markets:

Miami to/from Tampa;

Chicago to/from: Cleveland/Pittsburgh/St. Louis/Salt Lake City/Cincinnati.

The Joint Applicants state that Varig's code-share services in the United States will not carry local traffic between domestic points. The Joint Applicants also state that they plan to begin the additional services on January 18, 1998, and request that the authority be granted coextensive with the earlier approval of their code-services in the U.S.-Brazil market.

Applicant rep.: **Joel Stephen Burton 202-637-9130** *DOT analyst:* **Linda Senese, 202-366-2367**

DISPOSITION

XX *Granted, subject to conditions. (See below)*

The above action was effective when taken: **January 6, 1998,** through **July 1, 1998** (coextensive with earlier code-share approval)

XX *Under assigned authority (14 CFR 385) by:*

*Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)*

XX **Authority granted is consistent with the aviation agreement between the United States and Brazil, as amended, and the November 18, 1997 Memorandum of Consultations.
(See Reverse Side)**

¹ United's application was jointly filed with Varig, S.A. The November 21 amendment to the application concerns only Varig's requested authority, and that request is being handled in a separate notice, issued contemporaneously. The amendment to the application was accompanied by a motion for leave to file an otherwise unauthorized document, which we granted.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

Special Remarks: Under the U.S.-Brazil aviation agreement, as amended in October 1996, Brazilian carriers could serve 20 points in the United States on a code-share basis. Prior to the filing of this application, Brazil had only selected 16 code share only points. On November 10, 1997, the Government of Brazil notified the United States that it had decided to substitute Cleveland for the previously selected point of Maui and to select the additional cities of Tampa, Pittsburgh, St. Louis and Salt Lake City for code-share only services.

On November 14, 1997, American and TAM-Transportes Aereos Meridionais, S.A. jointly filed in opposition to the application to the extent the application was mutually exclusive with the American/TAM November 14 request for additional U.S. code-share-only points.

By a Memorandum of Consultations, dated November 18, 1997, and being applied on a provisional basis, the number of available code-share cities for each country was increased to 25.

In light of the November 18 MOC, there are sufficient additional points for Brazilian carrier code-share-only points to encompass both the United/Varig and the American/TAM requests. Accordingly, we determined that the United/Varig and American/TAM applications are in fact not mutually exclusive. We proceeded to grant the United/Varig application. We, contemporaneously, granted those portions of the American/TAM application for code-share-only authority consistent with the bilateral regime at this time and deferred action on the balance, pending selection by Brazil of the code-share-only points requested.

On November 26, 1997, the Massachusetts Port Authority answered in support of the United/Varig application and amendment. Their answer was accompanied by a motion for leave to file, which we granted.

The authority granted is coextensive with the duration of the statement of authorization and exemption granted VARIG on January 6, 1998.

Conditions: The code-sharing operations authorized herein must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere, and that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger.